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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,643	03/17/2004	Chen-Hua Pang	12695-US-PA	2642

31561	7590	07/30/2007
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE		
7 FLOOR-1, NO. 100		
ROOSEVELT ROAD, SECTION 2		
TAIPEI, 100		
TAIWAN		

EXAMINER	
TORRES, MARCOS L	

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
07/30/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USA@JCIPGROUP.COM.TW



## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4-12-2007 have been fully considered but they are not persuasive.
2. As to applicant representative (hereinafter applicant) argument that the examiner failed to interpret the subject matter on which the rejection relied to teach the channel and sub-channel as set forth in claim 1; 37 CFR 1.104 (c) (2) disclose:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

In the Official Action mailed on 1-1-2007, the examiner cited the references and the respective section that one of the ordinary skills in the art would have no trouble to interpret. However, to help the applicant the examiner will interpret the rejection in record.

A channel is a means of communication between points; it could be a specific frequency spectrum, but it is not limited to only that interpretation. For example, channels can be physical or logical channels for example: code channel (CDMA), time channel (TDMA), etc. Applicant is correct regarding the examiner equating carrier with channel. With that on mind, one of the ordinary skills in the art would have no trouble

distinguishing the pertinence of the references. If applicant still needs further assistance with the interpretation of the claim, please free to communicate with the examiner

Regarding the rest of the applicant arguments, it seems that applicant is restricting the interpretation of channel to frequency spectrum only. The applicant is reminded that the broadest reasonable interpretation is given to the claim.

The current rejection in record stands.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shattil US 20030147655A1 in view of Razavilar US 20030181211A1.

As to claims 1-2 and 4-5, Shattil discloses a method of setting operation channel of wireless local area network access point (see par. 0076,0090), comprising the steps of: obtaining the occupation status of various channels in the surrounding; dividing each

channel into a plurality of sub-channels and computing to determine in-use weight of each sub-channel according to the occupation status of the channels (see par. 0166,0168); Shattil does not specifically disclose selecting the channel with the most unoccupied sub-channels to serve as an operation channel of the wireless local area network access point. In an analogous art, Razavilar discloses a method of setting operation channel of wireless local area network access point (see par. 0031), selecting the channel with the most unoccupied sub-channels to serve as an operation channel of the wireless local area network access point (see fig. 4). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings for selecting best available channel and reducing inference.

As to claim 3 and 6, Shattil discloses the method of claim wherein the number of sub-channels in each channel is set according to a demand (bandwidth: see par. 0168).

### ***Conclusion***

6. Examiner's note: Examiner has cited particular sections in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be mailed to:

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Hand delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos L Torres  
Examiner  
Art Unit 2617



mlt



GEORGE ENG  
SUPERVISORY PATENT EXAMINER